

Applicant has invented an apparatus for preparing a boned pork product which includes a searing oven at a high temperature cooking station for braising and charring the boned pork product using radiant heat. The apparatus also includes a dual box, spiral steam cooker at a low temperature cooking station for cooking the boned pork product using steam to yield a fully-cooked, boned pork product. The apparatus further includes a freezer at a freezer station for freezing the fully-cooked, boned pork product. A first conveyor belt is disposed between the searing oven and the steam cooker and serves to mechanically transport the boned pork product from the high temperature cooking station to the low temperature cooking station. A second conveyor belt is disposed between the steam cooker and the freezer and serves to mechanically transport the fully-cooked, boned pork product from said low temperature cooking station to said freezer station. Together, first and second conveyor belts continuously and mechanically feed the product through the apparatus. In use, the first conveyor belt advances the boned pork product through the searing oven which braises and chars the product using radiant heat. The first conveyor belt further advances the product into the dual box, spiral steam cooker which fully cooks the product. The steam cooker advances the fully-cooked product onto the second conveyor belt which, in turn, advances the product into the freezer. The freezer chills the product for distribution purposes.

As will hereinafter be explained in detail, the references cited by the Examiner in the rejections fail to teach, disclose or suggest applicant's claimed invention, as amended.

In paragraphs 1-3 of the first Office Action the Examiner commented,

- I. Claims 1-4, drawn to an apparatus for preparing a bone pork product, classified in class 99, subclass 355.
- II. Claims 5-7, drawn to a method for preparing a boned pork product, classified in class 426, subclass 510.

The inventions are distinct, each from the other because:

Inventions Group I and Group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to make pizza, or cake.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Daniel [K]riegsman on 9-13-01 a provisional election was made with traverse to prosecute the invention of Group II, claims 5-7. Affirmation of this election must be made by application in replying to this Office Action. Claims 1-4 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Accordingly, applicant affirms the election of Group II, claims 5-7, drawn to a method for preparing a boned pork product, classified in class 426, subclass 510. In addition, application wishes to note to the Examiner that claims 1-4 of non-elected group I are being canceled herewith.

Claims 5-7 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In support of the rejection, the Examiner commented,

Each of the terms "high, low, mechanically" are relative terms which render the claims indefinite. The terms "high, low, mechanically" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Accordingly, applicant is amending claims 5-7 herewith to overcome the Examiner's rejection.

Withdrawal of the rejection of claims 5-7 under 35 U.S.C. 112, second paragraph, is respectfully urged.

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,314,705 to Hansson et al. (hereinafter referred to as Hansson) in view of U.S. Patent No. 4,565,704 to Dagerskog et al. (hereinafter referred to as Dagerskog). In support of the rejection, the Examiner commented,

Hansson teaches a method for preparing a frozen meal package comprising the steps of, applying radiant heat to the pork product at a high temperature cooking station (col.1, lines 45+), applying steam to the pork product at a low temperature cooking station to yield a fully-cooked, pork product (col. 1, lines 55+), and freezing the food product (col. 2, lines 30+). Hansson teaches all of the claimed limitations except for a boned pork product. Dagerskog teaches a food product comprising pork chops (col. 3, lines 15+). It would have been obvious to one of ordinary skill in the art to make in Hansson food product the pork chops as taught by Dagerskog, since Dagerskog teaches that the pork chops can be frozen and packaged.

This rejection is respectfully traversed.

With respect to claim 5, applicant claims a method for preparing a boned pork product comprising the steps of, inter alia, applying radiant infrared heat to the boned pork product, applying steam to the boned pork product to yield a fully-cooked, boned pork product, and freezing the fully-cooked, boned pork product. As will be described further in detail below, combining Hansson with Dagerskog does not render applicant's claimed invention unpatentable.

Specifically, applicant claims a method for preparing a boned pork product which comprises the step of applying radiant infrared heat to the boned pork product. Applicant respectfully disagrees with the Examiner's contention that Hansson teaches the step of applying

radiant infrared heat to a boned pork product. Rather, applicant respectfully contends that Hansson teaches the step of applying conventional oven heat to a meat product.

As can be appreciated, applying radiant infrared heat to a boned pork product is not the same as applying conventional oven heat to a meat product. Specifically, radiant infrared heat is a considerably higher in temperature than conventional oven heat. In fact, radiant infrared heat can reach temperatures of approximately 1500°F (*see* page 7, line 13 of the subject patent application) whereas conventional oven heat can only reach temperatures in the range of approximately 350°-400°F (*see* col. 1, lines 49-53 of Hansson).

The use of radiant infrared heat in applicant's claimed method for preparing a boned pork product provides a couple notable advantages. First, radiant infrared heat serves to braise the product, thereby rendering out the fat from the product, which is highly desirable. Second, radiant infrared heat servers to sear, or char, the exterior of the product, thereby providing the exterior of the boned pork product with a darkened color and a charred appearance, which is highly desirable. *See* page 7, lines 10-14 of the subject patent application.

Withdrawal of the rejection of claim 5 under 35 U.S.C. 103(a) as being unpatentable over Hansson in view of Dagerskog is respectfully urged.

Claims 6-7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hansson in view of Dagerskog and further in view of U.S. Patent No. 4,867,994 to P.M. Perrine (hereinafter referred to as Perrine). In support of the rejection, the Examiner commented,

Hansson in view of Dagerskog teaches all of the claimed limitations except for the step of mechanically transporting the product from the high temperature cooking station to the low temperature cooking station and to the freezing station. Perrine teaches a method step of mechanically transporting the product from the high temperature cooking station to the low temperature cooking station and to

the freezing station (col. 8, lines 65+, col. 9, lines 50+, col. 10, lines 5+, col. 11, lines 10+). It would have been obvious to one of ordinary skill in the art to prepare a frozen meal package by transporting the product from the high temperature cooking station to the low temperature cooking station and to the freezing station mechanically as taught by Perrine, since Perrine teaches the conventional method of using a conveyor when transporting product to other stations, and since this save time and labor of a human transporting the product.

This rejection is respectfully traversed.

With respect to claims 6 and 7, applicant contends that claims 6 and 7 are in allowable form, inter alia, for being dependent upon claim 5, which applicant believes is in allowable form for the reasons noted above.

Withdrawal of the rejection of claims 6-7 under 35 U.S.C. 103(a) as being unpatentable over Hansson in view of Dagerskog and further in view of Perrine is respectfully urged.

New claims 8-15 have been added. Claims 8-15 depend from claim 5 and are patentable over the cited references based, inter alia, on their respective dependencies from claim 5.

The prior art made of record and not relied upon is noted.

Allowance of the application with claims 5-15 is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

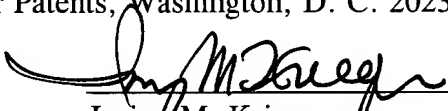
Kriegsman & Kriegsman

By: 

Irving M. Kriegsman
Reg. No. 22,733
665 Franklin Street
Framingham, MA 01702
(508) 879-3500

Date:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Non-Fee Amendment, Commissioner for Patents, Washington, D. C. 20231 on 12-4-01.


Irving M. Kriegsman

MARKED-UP AMENDED CLAIMS 5-7:

5. (Amended) A method for preparing a boned pork product comprising the steps of:

(a). applying radiant infrared heat to the boned pork product at a first [high temperature] cooking station,

(b). applying steam to the boned pork product at a second [low temperature] cooking station to yield a fully-cooked, boned pork product, and

(c). freezing the fully-cooked, boned pork product at a third [freezing] station.

6. (Amended) The method of claim 5 [4] further comprising the step of [mechanically] transporting the product from the first [high temperature] cooking station to the second [low temperature] cooking station.

7. (Amended) The method of claim 6 further comprising the step of [mechanically] transporting the product from the second [low temperature] cooking station to the third [freezing] station.